

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION

DWANE E. ENGLAND, and  
REBECCA ENGLAND, his wife,

Plaintiffs,

v.

Civil Action No. 2:17-CV-01369

J.B. HUNT TRANSPORT  
SERVICES, INC.; J.B. HUNT  
TRANSPORT, INC.; and  
PPG INDUSTRIES, INC.,

Defendants.

**NOTICE OF REMOVAL**

NOW COME the Defendants, J.B. Hunt Transport Services, Inc., J.B. Hunt Transport, Inc., and PPG Industries, Inc. by and through counsel Michael P. Markins, Jeffrey B. Brannon and Allison M. Subacz of Cipriani & Werner, P.C. pursuant to 28 U.S.C. § 1446, and hereby give notice that, on the grounds set forth below, it is removing the above styled action from the Circuit Court of Jackson County, West Virginia to the United States District Court for the Southern District of West Virginia. In support, Defendants state as follows:

1. This civil action was commenced by the Plaintiffs Dwane England and Rebecca England ("Plaintiffs"), against Defendants on or about January 19, 2017, by the filing of a Complaint in the Circuit Court of Jackson County, West Virginia, designated Civil Action No. 17-C-5. (See Summons and Complaint attached hereto as "**Exhibit 1**").

2. This Notice of Removal is being filed within thirty (30) days after the receipt by Defendants of the Complaint filed by the Plaintiffs, which, for the first time, raises claims

removable to the United States District Court for the Southern District of West Virginia. *See* 28 U.S.C. § 1446(b).

3. In accordance with 28 U.S.C. § 1446(a), the Summons and the Complaint constitute all the process, pleadings and orders served upon them affecting removal. (*See* “**Exhibit 1**”). A certified copy of the Docket Sheet for Civil Action No. 15-C-7 in the Circuit Court of Jackson County, West Virginia, is attached hereto as “**Exhibit 2.**”

4. A true and correct copy of this “Notice of Removal” will be filed promptly with the Circuit Clerk of Jackson County, West Virginia, and written notice thereof given to counsel for Plaintiff in accordance with 28 U.S.C. § 1446(b). The “Notice to Plaintiffs and Circuit Court of Filing of Notice for Removal” is attached hereto as “**Exhibit 3.**”

5. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1332(a).

6. Venue of this removal is proper under 28 U.S.C. § 1441(a) in the United States District Court for the Southern District of West Virginia because of Circuit Court of Jackson County is within the Southern District.

#### **COMPLETE DIVERSITY EXISTS**

7. The Complaint alleges that the Plaintiffs are residents of the State of West Virginia.

8. J.B. Hunt Transport Services, Inc. is an Arkansas corporation with its principal place of business in Lowell, Arkansas. J.B. Hunt Transport Services, Inc. is not and was not at any relevant time a corporate citizen of the State of West Virginia.

9. J.B. Hunt Transport, Inc. is a Georgia Corporation with its principal place of business in Lowell, Arkansas. J.B. Hunt Transport, Inc. is not and was not at any relevant time a corporate citizen of the State of West Virginia.

10. PPG Industries, Inc. is a Pennsylvania Corporation with its principal place of business in Pittsburgh, Pennsylvania. PPG Industries, Inc. is not and was not at any relevant time a corporate citizen of the State of West Virginia.

**THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED**

11. The Complaint alleges personal injuries to the Plaintiff Dwane England including, but not limited to, Post Traumatic Stress Disorder, blunt force trauma, broken bones, punctured lung, amputation of his arm, and organ damage. Plaintiff Dwane England alleges that his injuries resulted in at least a 13% impairment as a final award in his workers' compensation claim. Plaintiff Dwane England further alleges permanent injuries, pain and suffering, mental anguish and emotional distress, annoyance and inconvenience, loss of ability to enjoy life, future medical care, loss of earnings, and loss of earning capacity. Plaintiff Becky England alleges a loss of consortium claim. Finally, Plaintiffs are seeking punitive damages. Plaintiff has in excess of \$75,000.00 in medical specials alone.

12. The removal of the above-captioned civil action from the Circuit Court of Jackson County to the United States District Court of the Southern District of West Virginia is proper.

**WHEREFORE**, Defendants pray that the service and the filing in this Honorable Court of this Notice of Removal, and also the service upon the Plaintiff and the filing in the Circuit Court of Jackson County, West Virginia, a notice to Plaintiff and the Circuit Court of the filing of this Notice of Removal (which includes an attached copy of this Notice of Removal) shall effect the removal of this action from the Circuit Court of Jackson County, West Virginia, to the United States District Court for the Southern District of West Virginia and said State Court may proceed no further with this action.

**J.B. Hunt Transport Services, Inc.  
J.B. Hunt Transport, Inc.**

**PPG Industries, Inc.**

By Counsel

/s Michael P. Markins

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